

ADVISORY OPINION 91-24 [1991-16]

The Ethics Commission has reviewed your letter of August 21, 1991, in which you question under what circumstances a County employee may solicit gifts on behalf of a charitable organization during official work hours.

Section 19A-7 of the Montgomery County Public Ethics Law provides that any person subject to the ethics law may ask the Commission for an advisory opinion on the meaning or application of the law to that person.¹ The Commission understands that you are a County employee and has determined that the question you have asked may have application to you.

Your letter asserts: County firefighters desire to solicit donations from the public during official work hours for the benefit of the Muscular Dystrophy Association. The Ethics Commission had previously determined that such activity would violate the County's ethics law and Charter; on the other hand, County employees currently participate in the Montgomery County Employees Charity Campaign during official work hours.

In 1988, the Ethics Commission received a request from the Fire Chief of an independent fire corporation to use paid firefighters and firefighting equipment to conduct door-to-door solicitations for donations to support the independent fire corporation. The Ethics Commission determined that such a solicitation would violate Section 19A-11 of the ethics law and declined to grant a waiver to allow such a solicitation. In 1988, Section 19A-11 prohibited an official or employee from soliciting any gift.

In January 1990, the Council adopted Bill 33-89 which generally revised the Montgomery County Public Ethics Law. Bill 33-89 went into effect in April 1990. Old Section 19A-11 became Section 19A-16 and now provides, in pertinent part:

“(a) A public employee must not solicit a gift

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- (2) during official work hours, or at a County agency, or from any other public employee who is supervised directly or indirectly by the public employee;
- (3) while wearing all or part of an official uniform of a County agency, or while otherwise identifiable as a public employee;

* * *

(b) However, a public employee may solicit a gift:

- (1) from public employees during official work hours, or at a County agency, for a charitable drive that is approved by the County Executive or (for public employees of the

¹ Unless otherwise indicated, section references are to the Montgomery County Code (1984).

legislative branch) the President of the Council, when the solicitation is part of the public employee's official duties;”

Accordingly, the ethics law now authorizes the County Executive to approve charitable drives that use the services of County employees during official work hours. The Commission notes that the current Montgomery County Employees Charity Association is participating in this drive.

Finally, in your letter you ask about the use of County firefighters to perform work outside of the employees’ job description. Your letter cites no facts in connection with this inquiry. The Commission, however, would like to note that issues regarding work outside of a job description are general personnel matters which are beyond the authority of the Ethics Commission to address. Section 19A-14(c), however, does prohibit a public employee from using work time for the benefit of another unless the use is available to the public generally or authorized by law, regulation, or administrative procedure.

The Commission hopes that you will find this advisory opinion responsive to your inquiry. If you have further questions regarding these matters, please do not hesitate to contact the Commission.

Date of Issue: 10/21/91